## REMARKS/ARGUMENTS

Claims 1-20 stand objected to in the outstanding Official Action (note the claims are "objected to" on the Office Action Summary sheet, but are rejected under §§101 and 102 in the body of the Final Rejection). Claims 1 and 10 have been cancelled without prejudice and claims 2, 3, 6-9, 11, 12 and 15-18 amended. Therefore, claims 2-9 and 11-20 are the only claims remaining in this application.

The Examiner's withdrawal of the previous objections to the title, abstract, drawings and claims is very much appreciated.

The Examiner's elaboration in section 4 entitled "Response to Arguments" is very much appreciated. Applicant notes that in the first paragraph on page 3 of the Official Action, the Examiner's observation that the current claim language "does not necessarily require that there is a conditional return instruction." While this observation may be correct with respect to independent claims 1 and 10, it is believed incorrect with respect to previously submitted claims 19 and 20 in which the last there lines in each claim specify that the first type of instruction flow changing instruction is "a conditional procedure return instruction." Thus, in each instance, the conditional procedure return instruction exists and therefore the event in the last paragraph of claims 19 and 20 would also exist.

**Telephone Interviews Conducted January 16, 2007**

Applicant's undersigned representative conducted a number of short telephone interviews with Examiner Lai on January 16, 2007 regarding the outstanding Final Rejection and the claims in this application. During the three telephone interviews with the Examiner, the first topic of discussion was complying with the Patent Office requirement of specifying what the Patent

Office considers to be "a tangible result." Various options were discussed, including the possibility of providing an additional storing step or a step which specified use of the determined information. A specific amendment to claims 1 & 10 was discussed in the second telephone interview with agreement being reached as to the amendment confirming statutory basis on the claims if they were so amended.

In the third and final telephone discussion, Applicant's representative pointed out that claims 19 and 20 (newly submitted in the Amendment filed July 31, 2006) recited the requirement of a "conditional procedure return instruction" even though this may have been overlooked given the Examiner's statement in the first paragraph on page 3 of the Final Rejection. The Examiner provided a tentative indication that this recitation would overcome any §101 objection. Applicant suggested that an amendment canceling claims 1 and 10 and amending the claims previously dependent on claims 1 and 10 to be dependent from claims 19 and 20 would obviate any §101 objection. Applicant also pointed out that since claims 19 and 20 were previously submitted, the consideration of these claims and claims dependent therefrom would not appear to raise any new issues requiring further consideration and/or search. The Examiner, while reserving judgment, indicated that he believed that entry of such an amendment would be likely. The merits of the rejection under §102 were not discussed.

**Entry of the Amendment Pursuant to the Provisions of Rule 116**

Applicant respectfully requests the entry of the above amendment pursuant to the provisions of 37 CFR 1.116. Inasmuch as the subject matter of claims 19 and 20 has previously been considered, changing the dependency of claims 2-9 and 11-18 to depend from claims 19 and 20, respectively, would not appear to raise any new issue requiring further consideration

and/or search. The significant difference between claims 1 and 10 on the one hand and claims 19 and 20 on the other is the "wherein" phrase at the end of claims 19 and 20, specifying that the first type of instruction flow changing instruction is a conditional procedure return instruction operable when executed to cause the processor to return from a procedure being executed by the processor.

This additional operational step cures the alleged non-statutory rejection of cancelled claims 1 and 10 and therefore eliminates the basis for further rejection of the remaining claims under §101. This reduces the issues on appeal by limiting the issue only to the §102 anticipation rejection of the claims. Because the amendment raises no new issues requiring further consideration and/or search, because it merely changes the dependency of existing claims and because the independent claims were previously presented and considered by the Examiner, entry of this amendment is believed appropriate under Rule 116.

**Consideration of Independent Claims 19 and 20 on the Merits**

While the outstanding Final Rejection does not indicate any statutory basis for rejection of claims 19 and 20 (it is noted that section 6, the only section containing a statutory basis, is limited to a rejection of claims 1-18), it is presumed that the Examiner intended to reject claims 19 and 20 under 35 USC §102.

Applicant notes that beginning on page 11, the Examiner addresses claims 19 and 20 and that this discussion of claim 19 is virtually identical to the discussion of claim 1 except for the paragraph bridging pages 12 and 13 which is directed to the last three lines of claim 19. Similarly, the discussion of claim 20 is identical to the discussion of method claim 10 except for the last paragraph on page 14 (immediately before "Conclusion") which is directed to the last

three lines of claim 20. To the extent the rejection of claims 19 and 20 is a verbatim copy of the previously noted rejection of claims 1 and 10, Applicant incorporates the discussion of the rejection of claims 1 and 10 under §102 as set out in the Amendment filed July 31, 2006 beginning at page 14 and this discussion is incorporated by reference.

Applicant will note that the distinction between the McMahan reference as defining returns of a "flow changing instruction" as being non-conditional and this was previously noted on page 14 in the Remarks portion of the previously submitted Amendment. Claims 19 and 20, as noted above, specifically state that the "first type of instruction flow changing instruction is a conditional procedure return instruction," thereby clearing distinguishing the McMahan reference from Applicant's independent claims 19 and 20.

As the Examiner will appreciate, because McMahan specifically identifies returns as being unconditional, it will be readily apparent that there would be no need for the method and apparatus of Applicant's claims which are limited to "conditional procedure return instructions." Quite clearly, in the McMahan case, if the return instructions are unconditional (as taught by McMahan), then no prediction needs to be made as to whether they will be executed and, accordingly, the currently claimed invention would not be needed.

As noted in the previously filed Amendment and, as further discussed above, McMahan simply does not anticipate or render obvious the subject matter of independent claims 19 and 20 or claims dependent thereon. Accordingly, remaining claims 2-9 and 11-20 are believed to be clearly patentable over the McMahan reference and any further rejection thereunder is respectfully traversed.

Accordingly, entry of the above amendment pursuant to the provisions of Rule 116 is believed appropriate, as the subject matter of the independent claims was of record prior to the issuance of the Final Rejection. The limitations in previously filed claims 19 and 20 clearly distinguish over the McMahan reference, rendering this application in condition for allowance.

Having responded to all objections and rejections set forth in the outstanding Official Action, it is submitted that remaining claims 2-9 and 11-20 are in condition for allowance and notice to that effect is respectfully requested. In the event the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, he is respectfully requested to contact Applicant's undersigned representative.

Respectfully submitted,

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